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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/836,762 04/17/01 PATTERSON

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QM32/1010
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EXAMINER

VANATTA, A

ART UNIT

PAPER NUMBER

3765

DATE MAILED:

10/10/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/836,762

Applicant(s)
Patterson et al

Examiner
Amy B. Vanatta

Art Unit
3765



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Apr 17, 2001

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-11 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-11 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on Apr 17, 2001 is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

20) ☐ Other:

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the concave lower protrusion which has an upward arching lowermost point which smoothly transitions at each end to horizontal extensions must be shown or the feature(s) canceled from the claim(s). Also, the convex upper indentation which has an upward arching lowermost point which smoothly transitions at each end to horizontal extensions must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: The specification (p. 5) describes the lowermost point of the indentation 20 as being indicated in the drawings as numeral 25. The drawings do not appear to indicate the lowermost point of the indentation 20 by any reference numeral.

Additionally, the numeral 25 in Fig. 3 appears to indicate the adhesive tab. The adhesive is not referred to in the specification by means of a reference numeral in the drawings. Correction is required.

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Claim Rejections - 35 USC § 112

3. Claims 1-5 and 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in reciting a first edge "parallel to and opposite from" the second vertical edge (line 2) and then subsequently reciting that the first edge is parallel to the second vertical edge (line 3). This appears to recite the identical limitation twice (i.e. that the first edge is parallel to the second edge) and is therefore confusing.

Claims 9 and 11 recite "said bib element" without antecedent basis.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 6, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper (3,001,646).

Cooper discloses a bib having a generally rectangular planar surface with opposite first and second vertical edges which are parallel as claimed. The bib has supporting means in the form of a neck ring perforation 11. The neck ring is circular and is positioned near but slightly

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below the uppermost edge as claimed. Cooper also discloses a plurality of such bibs in a linearly aligned, rolled form as in claim 6 (see Fig. 1). The bib includes adhesive tabs (22,23) as in claim 10.

6. Claims 1, 6, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rose (4,884,299).

Rose discloses a bib having a generally rectangular planar surface with opposite first and second vertical edges which are parallel as claimed. The bib has supporting means in the form of a neck ring perforation (forming neck piece 11 as seen in various embodiments shown in Figs. 1a, 3a, 4a, 5c, 6a-8a, 10a, 11c, and 12a). The neck ring is circular and is positioned near but slightly below the uppermost edge as claimed. Rose also discloses a plurality of such bibs in a linearly aligned, rolled form as in claim 6. The bib includes adhesive tabs as in claim 10 (see, e.g. Fig. 8a).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-3, 8-9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (3,001,646).

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Cooper discloses a bib as claimed, however the specific dimensions of the bib are not disclosed. Thus, Cooper does not disclose the dimensions of the diameter, the distance from the uppermost edge to the center point of the neck ring, and the length and width of the bib as in claims 2, 3, and 9. It requires only routine skill in the art to determine the optimal dimensional values based on the intended use of the bib and the size of the intended wearer of the bib. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the bib of Cooper having the claimed dimensions, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 8, Cooper does not disclose the number of tears per inch of the neck perforation. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the bib of Cooper having three tears per inch in the neck perforation, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Moreover, it would have been an obvious matter of design choice to provide the perforation of Cooper with three tears per inch, since applicant has not disclosed that the number of tears per inch solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with slightly more or slightly fewer tears per inch.

Regarding claim 11, Cooper teaches that the bib is made of "inexpensive sheet material such as paper and which may be discarded after one use" (col. 1, lines 8-9). Cooper does not

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specifically disclose the nonwoven material recited in claim 11, however such a material is known to be used for bibs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the claimed virgin bleached wood pulp and polymer emulsion nonwoven fabric as the material for the bib of Cooper, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

9. Claims 4, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose (4,884,299) in view of Bodner et al (4,423,523).

Rose discloses a bib as claimed, however the bib does not have a concave lower protrusion or a concave upper indentation as in claims 4-5 and 7. Bodner et al disclose a bib having a concave lower protrusion (25c for bib 20d in Fig. 1) which extends down from the main planar surface in a symmetric, curvilinear manner, having an upward arching lowermost point which smoothly transitions at each end to a horizontal extension at each side as claimed. Bodner discloses an upper convex indentation (25d for bib 20d in Fig. 1) which protrudes inwardly into the main planar surface and is formed in a curvilinear manner, having an upward arching lowermost point which smoothly transitions at each end to a horizontal extension at each side as claimed. Bodner teaches that such a design prevents bleeding of the captured or absorbed fluids by the lower edge of the absorbent part of the bib (col.2, lines 45-48). Rose discloses an embodiment in which the back layer of the bib is a fluid impermeable layer (see, e.g., col. 8, lines 1-5). Thus, by providing this embodiment with the structure of Bodner, whereby the impermeable

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backing layer extends below the absorbent layer, bleeding is prevented such as taught by Bodner. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the bib of Rose with a concave lower protrusion and a convex upper indentation such as claimed in order to prevent bleeding of the captured or absorbed fluids by the lower edge of the absorbent part of the bib, as taught by Bodner.


Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy Vanatta at telephone number (703) 308-2939. The examiner can normally be reached Monday-Thursday from 8:30 to 7:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, can be reached at (703)305-1025.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861. Facsimile correspondence for this application should be sent to (703) 305-3579 or (703) 305-3580.


AMY B. VANATTA
PRIMARY EXAMINER
ART UNIT 3765

abv
September 25, 2001

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any). If an application number has not been assigned to the application, if this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.